Remarks

Entry of the above-noted amendments, reconsideration of the application, and allowance of all claims pending are respectfully requested. By this amendment, claims 1, 11, 16, and 21 are amended, claim 10 is canceled, and claim 22 is added. These amendments to the claims constitute a bona fide attempt by applicants to advance prosecution of the application and obtain allowance of certain claims, and are in no way meant to acquiesce to the substance of the rejections. Support for the amendments can be found throughout the specification (e.g., page 1, line 20 to page 2, line 5; page 5, line 6), figures (e.g., FIG. 1), and claims (e.g., current claim 7, previous claim 10) and thus, no new matter has been added. Claims 1-9 and 11-22 are pending.

Claim Rejections - 35 U.S.C. § 101

Claims 1-15 and 21 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. The previous amendments to the specification removed the reference to the "modulated carrier signal". The present form of claims 1-15 and 21 is believed allowable. Similar form is found in U.S Patents 7,249,238 (claim 19), 7,194,682 (claim 29), and 7,124,131 (claim 13).

Withdrawal of the § 101 rejections is therefore respectfully requested.

Claim Rejections - 35 U.S.C. § 112

Claims 13 and 20 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. These rejections are respectfully, but most strenuously, traversed.

The Office Action alleges that prevention of autonomous control of the software and/or hardware entity as recited in claims 13 and 20 is not taught in the specification. As discussed in

9   LUC-450 / Buskens 6-1-1-1-2

the previous Response, the specification discloses multiple examples of shared control of the

software and/or hardware entity. The specification further recites (page 7, lines 6-13):

> The software and/or hardware entity 102 may allow connection
> with the management component 106 (e.g., the high availability
> services software) and allow connection with the management
> component 104 to prevent autonomous control of the software
> and/or hardware entity 102 by one of the management components
> 104 and 106, such as, the high availability services software. For
> example, the high availability services software is able to peer with
> the management component 104 to cooperatively manage the
> software and/or hardware entity 102 not under the exclusive
> control of the high availability services software.

Since the software and/or hardware entity 102 may allow connection with both the

management component 106 and the management component 104, as previously described, the

autonomous control of the software and/or hardware entity 102 by either of the management

components 104 and 106 is prevented. As one example of enablement, one skilled in the art can

make or use this aspect of the invention by configuring the manager components to access a

configuration file that provides each manager component with a list of responsibilities and/or

configuring the manager components to dynamically negotiate the responsibilities (page 6, lines

6-9).

Withdrawal of the § 112 rejections is therefore respectfully requested.

10   LUC-450 / Buskens 6-1-1-1-2

Claim Rejections - 35 U.S.C. § 102

Claims 1, 16, and 21 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Baughman (U.S. Patent No. 6,408,399). Claims 1-21 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Anderson (U.S. Patent App. Pub. No. 2003/0058796). These rejections are respectfully, but most strenuously, traversed.

Applicants respectfully submit that the Office Action's citations to the applied references, with or without modification or combination, assuming, *arguendo*, that the modification or combination of the Office Action's citations to the applied references is proper, do not teach or suggest the first manager component of the legacy management system and the second manager component, that comprises high availability services system software, that are configured to concurrently share management responsibility for the software and/or hardware entity, as recited in applicants' independent claim 1.

For explanatory purposes, applicants discuss herein one or more differences between the claimed invention and the Office Action's citations to Baughman and Anderson. This discussion, however, is in no way meant to acquiesce in any characterization that one or more parts of the Office Action's citations to Baughman or Anderson correspond to the claimed invention.

Baughman (column 5, lines 18-23) discloses:

> The system manager 120 and 130 also checks for and corrects errors, such as both computers 10 and 11 assuming an active state, no computer 10 or 11 in an active state, the active computer unable to access the shared disks 12 and 13, and a non-active computer with access to the shared disks 12 and 13.

Baughman discloses that an instance where both computers have access to the shared disks is an error condition. Accordingly, the computers are not configured to share management,

but to instead take full control. Baughman teaches away from shared management responsibility of the disks 10 and 11 and instead teaches an active/standby relationship.

The Office Action (page 18, section 3) states:

> "One interpretation of the meaning of concurrent is acting in conjunction, or cooperating. Under this interpretation, an active/standby setup fulfills a cooperating configuration."

The Office Action's discussion of "concurrent" has omitted a portion of the claim limitation. Claim 1 recites "concurrently share". While the active and standby components disclosed by Baughman may fulfill a cooperating configuration, they do not concurrently share management responsibility and instead take full control at alternate times. Baughman fails to disclose the first manager component of the legacy management system and the second manager component, that comprises high availability services system software, that are configured to concurrently share management responsibility for the software and/or hardware entity.

Accordingly, the Office Action's citation to Baughman fails to satisfy at least one of the limitations recited in applicants' independent claim 1.

Anderson (paragraph 19) discloses:

> ... The signaling manager receives its working instructions from the traffic manager and from the provisioning manager for each packet switch, router and interface access device of the packet network, which, among other things, enables the signaling manager to set up and dynamically change virtual circuits, paths and channels on a real-time basis...

Anderson discloses that the signaling manager receives instructions from the traffic manager and the provisioning manager. Anderson fails to disclose that any of the signaling manager, the traffic manager, and the provisioning manager are from a legacy management system. Anderson fails to disclose the first manager component of the legacy management system and the second manager component, that comprises high availability services system

software, that are configured to concurrently share management responsibility for the software and/or hardware entity.

Accordingly, the Office Action's citation to Anderson fails to satisfy at least one of the limitations recited in applicants' independent claim 1.

The Office Action's citations to Baughman and Anderson all fail to meet at least one of applicants' claimed features. For example, there is no teaching or suggestion in the Office Action's citations to Baughman and Anderson of the first manager component and the second manager component that are configured to concurrently share management responsibility for the software and/or hardware entity, as recited in applicants' independent claim 1.

For all the reasons presented above with reference to claim 1, claims 1, 16, and 21 are believed neither anticipated nor obvious over the art of record. The corresponding dependent claims are believed allowable for the same reasons as independent claims 1, 16, and 21, as well as for their own additional characterizations.
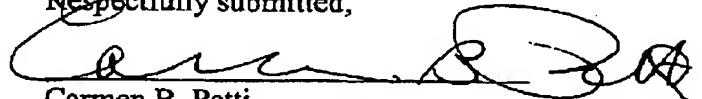
Withdrawal of the § 102 rejections is therefore respectfully requested.

13   LUC-450 / Buskens 6-1-1-1-2

In view of the above amendments and remarks, allowance of all claims pending is respectfully requested.   If a telephone conference would be of assistance in advancing the prosecution of this application, the Examiner is invited to call applicants' attorney.

Respectfully submitted,

Carmen B. Patti
Attorney for Applicants
Reg. No. 26,784

Dated: September 24, 2007

CARMEN B. PATTI & ASSOCIATES, LLC
Customer Number 47382